

## FACILITY USE AGREEMENT

THIS FACILITY USE AGREEMENT (“FUA”) is made as of this \_\_\_\_\_ day of June, 2007, by and among the CITY OF GLENDALE, a municipal corporation of the State of Arizona (hereinafter referred to as the “City”), CHICAGO WHITE SOX, LTD., an Illinois limited partnership (hereinafter referred to as the “White Sox”), and LOS ANGELES DODGERS LLC, a Delaware limited liability company (hereinafter referred to as the “Dodgers”).

### RECITALS

A. WHEREAS, the Dodgers own and operate the Major League Baseball team known as the “Los Angeles Dodgers” and the White Sox own and operate the Major League Baseball team known as the “Chicago White Sox” (each, the “Team” and collectively, the “Teams”); and

B. WHEREAS, pursuant to the Memorandum of Understanding entered into by the City and the Teams as of November 22, 2006 (“MOU”), the City has undertaken to work with the Teams to design, develop and construct a state-of-the-art, two-team Facility (as defined below in Article 1 on the Site (as defined below in Article 1); and

C. WHEREAS, the City and the Teams are entering into the FDA (as defined below in Article 1), simultaneously with this FUA, that delineates the parties’ respective rights and obligations relating to the development, design and construction of the Facility; and

D. WHEREAS, the City and the Teams now desire to enter into this FUA to delineate the parties’ respective rights and obligations relating to use, operation, maintenance, and repair of the Facility.

### AGREEMENTS

NOW THEREFORE, in consideration of the foregoing Recitals (which are hereby incorporated into this FUA) and the mutual promises, covenants, conditions, warranties and representations made by the parties herein and set forth below, IT IS AGREED AS FOLLOWS:

#### ARTICLE 1. DEFINITIONS

1.1. Definitions. The following terms shall have the following meanings:

1.1.1. 63-20 Corporation means an Arizona non-profit corporation, generally referred to as a “63-20 corporation,” created by the City for the purpose of owning the Facility.

1.1.2. Additional Improvements means, other than a Capital Repair or Facility Upgrade, any additional buildings or structures constructed on any portion of the Facility, or any structural or exterior changes to the Facility, in each case after Substantial Completion of the Facility.

1.1.3. Affiliate of any Person (the “**Subject Person**”) means any other Person who (a) is Directly or Indirectly Controlled by, or under common Control with, the Subject Person; or (b) is a general partner, officer, or director of the Subject Person or of any Person described in clause (a) or (b) above.

1.1.4. Ancillary Events means all non-baseball related events, including, without limitation, concerts, motocross and other sports events, conventions, trade shows and swap meets, conducted at the Facility, but shall not include City Events.

1.1.5. Cactus League means the MLB Spring Training league currently located within Arizona, or any successor, substitute or alternate league which engages in professional baseball competition in a manner comparable to the Cactus League, of which the Teams are or become members.

1.1.6. Capital Repairs is defined in Section 8.3 below.

1.1.7. Capital Repairs Account is defined in Section 8.5 below.

1.1.8. City Additional Insured Parties is defined in Section 16.1.3 below.

1.1.9. City Coverage is defined in Section 16.2.

1.1.10. City Events is defined in Section 6.2.4 below.

1.1.11. City Events Areas is defined in Section 6.2.4 below.

1.1.12. Component means any item which is incorporated into the Facility, including, but not limited to, all structural members, seats, fasteners (such as nails, nuts, bolts and screws), parts, pieces, concrete, electronic parts, shrubs, ramps, steps, systems, scoreboards, trees, steel bars and any other item, no matter how small or inconsequential, which is incorporated therein.

1.1.13. Control(s), Controlling or Controlled means the power, Directly or Indirectly, to direct or cause the direction of the management and policies of a Subject Person, whether by contract, through the ownership of voting securities, through the right to appoint members of a governing body or otherwise.

1.1.14. Direct or Indirect or Directly or Indirectly means through one or more tiers of subsidiaries, partnerships or other tiered structures.

1.1.15. Emergency Capital Repairs means work which constitutes Capital Repairs and either (i) is necessary to protect public health or safety (e.g., to avoid injury to Persons attending events or working at the Facility) or (ii) if performed promptly can, in the Teams’ reasonable judgment, avoid material cost to the City or the Teams or substantial damage to the Facility.

1.1.16. Expedited ADR means the Expedited Alternative Dispute Resolution procedures attached hereto as Exhibit D.

1.1.17. Facility means the Site, all Improvements, all Facility Equipment and all other items that the City is required to provide pursuant to the FDA.

1.1.18. Facility Equipment means any equipment, including, without limitation, office equipment, phone systems, training equipment, weight equipment, clubhouse equipment, and batting cage equipment, that the City is required to provide pursuant to the FDA to furnish the Facility and have it ready for use by the Teams upon Substantial Completion.

1.1.19. Facility Upgrades is defined in Section 8.4 below.

1.1.20. FDA means the Facility Development Agreement, entered into by the Teams and the City simultaneously with this FUA, which governs the parties' rights and obligations regarding the design, development and construction of the Facility.

1.1.21. FF&E means furniture, fixtures and equipment, including, without limitation, Facility Equipment.

1.1.22. Final Completion shall have the meaning ascribed to it in the FDA.

1.1.23. Force Majeure Event means any fire or other casualty, act of God, earthquake, flood, hurricane, lightning, tornado, epidemic, landslide, war, riot, civil commotion, general unavailability of materials, strike, slowdown, labor dispute, governmental laws or regulations or other occurrence beyond the Teams' or City's control.

1.1.24. Hazardous Materials means any containment, chemical, waste, irritant petroleum product, waste product, radioactive material, flammable or corrosive substance, explosive, poly-chlorinated biphenyls, asbestos, hazardous toxic substance, material or waste of any kind, or any other substance that any environmental law regulates. Hazardous Materials shall include, but not be limited to, substances defined as "hazardous substances," "hazardous materials," or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, *et seq.*; the Hazardous Materials Transportation Act, 39 U.S.C. Section 1801, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq.*; all applicable state and local laws; and in the regulations adopted and publications promulgated pursuant to said laws or any amendments or addenda thereto.

1.1.25. Improvements means the Stadium, Parking Lots, Playing Fields, all landscaped areas and all other improvements on the Site, including, without limitation, those improvements described in the Scope of Work attached to the FDA. Further, the Improvements shall include a buffer zone as described in Section 3.4 of the FDA.

1.1.26. Initial Term is defined in Section 2.1 below.

1.1.27. Lease Year means a twelve (12) month period commencing on January 1 of any calendar year during the Term hereof and ending on December 31 of such calendar year or, if applicable, the earlier termination of this FUA in accordance herewith; provided, however, that the first Lease Year shall commence on the first day of the Initial Term (as defined in Section 2.1 below) and shall end on the December 31 following the first Spring Training season conducted at the Facility.

1.1.28. Legal Requirement(s) means all federal, state, county, city and other governmental laws (including applicable constitutions), ordinances, codes, rules, regulations, statutes and orders (including court and administrative agency orders), all covenants and restrictions of record, and the requirements of all insurance underwriters or rating bureaus, applicable to the Facility.

1.1.29. Life Safety Issue means a situation which imposes an immediate threat of bodily harm or death to any users or occupants of the Facility or to those in the surrounding area.

1.1.30. Maintenance Standards means the standards of maintenance, repair, and operations maintained by managers of comparable Spring Training facilities in the State in accordance with reasonable commercial practices then in use.

1.1.31. Major League Baseball, MLB or MLB Entities means the Office of the Commissioner of Baseball, the American and National Leagues of Professional Baseball Clubs, Major League Baseball Enterprises, Inc., Major League Baseball Properties, Inc., Major League Baseball Properties Canada Inc., Baseball Television, Inc., MLB Advanced Media, L.P., MLB Advanced Media, Inc., MLB Media Holdings, Inc., MLB Media Holdings, L.P., MLB Online Services, Inc., any present or future Affiliates, successors or assigns of the aforementioned MLB entities, the member clubs of Major League Baseball acting collectively and any entities owned Directly or Indirectly by any of the aforementioned MLB entities or the clubs.

1.1.32. Major League Rules is defined in Section 20.1.1 below.

1.1.33. MLB Documents is defined in Section 20.1.1 below.

1.1.34. Other Permitted Transferee is defined in Section 12.1 below.

1.1.35. Parking Events is defined in Section 6.2.5 below.

1.1.36. Parking Lots means the outdoor parking lots to be constructed on the Site in accordance with the FDA and which shall include, without limitation, parking spaces for at least five thousand five hundred (5,500) vehicles and all of the driveways, fences and lighting incidental to the use thereof.

1.1.37. Playing Fields means any and all playing fields located within the Facility, including, without limitation, the Stadium and the six and one-half (6½) practice fields per Team to be constructed in accordance with the FDA.

1.1.38. Person means any individual, trust, estate, partnership, joint venture, limited liability company, corporation, association, or any other legal entity or business or investment enterprise.

1.1.39. Project Documents means this FUA and the FDA.

1.1.40. Public Safety Service is defined in Section 3.2.3, below.

1.1.41. Renewal Term is defined in Section 2.2 below.

1.1.42. Routine Maintenance is defined in Section 8.2 below.

1.1.43. Site means the portion of the 236.4 acre parcel of land owned by the City in the vicinity of 107<sup>th</sup> Avenue and Camelback Road in Phoenix and known as Camelback Ranch, more specifically described on the map and in the legal description attached hereto as Exhibit A.

1.1.44. Spring Training means the annual period during which MLB conducts spring training operations and/or training for the regular MLB season, generally running from February 1 through early April of each calendar year, but subject to change at the discretion of MLB, and which includes Cactus League games.

1.1.45. Spring Training Games means the Cactus League games to be played by a Team during Spring Training

1.1.46. Stadium means the state-of-the-art Spring Training stadium to be designed and constructed on the Site by the City in accordance with the FDA. The Stadium shall include, without limitation, fixed seating for at least twelve thousand (12,000) spectators and berm or "lawn" seating, to be located directly behind the outfield wall, for approximately three thousand (3,000) spectators.

1.1.47. State means the State of Arizona.

1.1.48. Substantial Completion has the meaning ascribed to it in the FDA.

1.1.49. Team Misuse means any event which causes damage to the Facility or any component thereof and arises out of uses by a Team that are not permitted under the FUA or as the result of the negligence or willful misconduct of a Team, or a Team's patrons, licensees, guests, invitees or permittees.

1.1.50. Term means the Initial Term and any Renewal Term(s) exercised by a Team.

## ARTICLE 2. TERM/OPTIONS TO RENEW/RENT

2.1. Initial Term. The "Initial Term" of this FUA shall commence on February 1, 2009, or the date that Substantial Completion of the Facility or of any Improvement is achieved

and the first Team takes possession thereof, whichever is earlier, and shall expire on December 31, 2028, unless this FUA is terminated earlier pursuant to the provisions hereof.

2.2. Renewal Term. For purposes of this FUA, a “**Renewal Term**” means a term of five (5) years commencing upon the expiration of the Initial Term or the immediately preceding Renewal Term, if any.

2.3. Option to Renew. The Teams shall each have four (4) successive options to renew this FUA for a Renewal Term. The Teams may jointly or independently exercise each of these options. A Team shall exercise its right and option for each Renewal Term by serving written notice upon the City of its election to exercise each said option at least nine (9) months before the expiration of the then-current Term. If a Team fails to provide such notice within the aforementioned time, then the Team’s right and option to renew shall continue in full force until the City notifies the Team that the renewal notice has not been received and the Team fails to exercise its renewal right within sixty (60) days after receipt of the City’s notice. It is the intention of the parties that the Teams shall not lose any renewal right through inadvertence; however, notwithstanding the above, following the written notice by the City to the Team not exercising the option to renew under this Section 2.3, the City shall have the right to begin the process to find a replacement team, and should a Team fail to provide notice of renewal to the City before the expiration of the sixty (60) day cure period provided in this Section 2.3, the City shall have the right to enter into an agreement to replace the non-renewing Team at the expiration of the Term. Each Renewal Term shall be upon the same terms and conditions as the Initial Term. If one Team fails to exercise a renewal right for a Renewal Term, and if more than one MLB team is available to replace the non-renewing Team, the Team that does exercise its renewal right for that Renewal Term (the “**Renewing Team**”) shall have approval rights over a replacement MLB team that would use the Facility for its Spring Training operations and home games, which approval shall be in writing and shall not be unreasonably withheld by the Renewing Team. The replacement team shall be required to assume all of the rights and obligations of the former Team under this FUA. The City shall not allow any replacement MLB team to use the Facility until the replacement team enters into an agreement with the Renewing Team to govern the allocation between the two teams of the rights, responsibilities and obligations of the Teams hereunder. The Renewing Team shall negotiate in good faith such an agreement with such replacement MLB team.

2.4. Rent. The Teams shall each pay to the City the sum of One Dollar (\$1.00) per Lease Year as rent payable in advance.

### ARTICLE 3. TEAMS’ USE OF THE FACILITY

3.1. Lease and Grant of Management Rights with Respect to the Facility. The City hereby grants to the Teams the right to use the Facility as set forth herein. Except as otherwise provided in this FUA, the Teams shall have the exclusive right to use, manage, and operate the Facility at their sole discretion in accordance with the terms and purposes of this FUA.

3.2. The Teams’ Rights and Obligations. Except as specifically provided in this FUA, the Teams shall be exclusively responsible for managing, operating, and maintaining the Facility

at their sole discretion and expense during the Term in accordance with the Maintenance Standards; provided, however, that the Teams' obligations for managing, operating and maintaining the Facility shall not commence with respect to any Improvement or any portion of the Facility until Substantial Completion of such Improvement or portion of the Facility or the Teams occupy or take control over that portion of Facility, whichever is the earlier to occur. The Teams shall not cause, permit, or suffer any waste or damage, disfigurement, or injury to the Facility or the fixtures or Facility Equipment thereon, with the exception of reasonable wear and tear, loss or damage by fire, natural catastrophe, or other casualty, or condemnation. Notwithstanding anything to the contrary contained in this FUA, the Teams shall not be responsible for ad valorem real estate taxes, if any, assessed or collected with respect to the Facility. The City shall not remove any FF&E, including any Facility Equipment, from the Facility (except in connection with any Capital Repairs or Facility Upgrades pursuant to Article 8), and the Teams shall have the right, during the Term, to use all FF&E in place at the Facility. During the Term, the Teams shall have, but not be limited to, the following rights, responsibilities, and obligations in connection with the Facility:

3.2.1. At their sole discretion, but in accordance with the terms of this Agreement, control the scheduling and use of the Facility as a publicly owned Spring Training facility for all baseball and Ancillary Events, in accordance with all Legal Requirements that are in any respect material to the transactions contemplated in and by this FUA, subject to the City's right to conduct City Events pursuant to Section 6.2.4 hereof.

3.2.2. Perform all Routine Maintenance of the Facility in accordance with Article 8 of this FUA and all Legal Requirements that are in any respect material to the transactions contemplated in and by this FUA.

3.2.3. Subject to Section 6.2.5 below and the terms of the Phoenix IGA (both as defined in the FDA), provide all security, crowd control, maintenance, cleaning, landscaping, groundskeeping and other personnel or independent contractors required for the proper maintenance and operation of the Facility in accordance with Article 8 of this FUA and all Legal Requirements that are in any respect material to the transactions contemplated in and by this FDA; provided, however, that the City shall provide or cause to be provided all Public Safety Services (as defined below) for the Facility. For purposes of this FUA, "**Public Safety Services**" means, without limitation, the police, fire, public transportation and traffic control services that are customarily provided by the City for public events which are similar in nature and scope to the Spring Training Games and the Ancillary Events to be held at the Facility during the Term. Without limiting the generality of the foregoing, the City hereby agrees that the "traffic control services" to be provided by it hereunder shall be designed to remove five thousand five hundred (5,500) vehicles anticipated for a Spring Training Game or Ancillary Event from the Facility within an average time of twenty-five (25) minutes after completion of a Spring Training Game or Ancillary Event, and may include, as required, the addition and/or use by the City of such infrastructure (e.g., roads, signs, traffic signals, etc.) and traffic control measures and personnel (e.g., police, lane direction changes, barriers, road closings, etc.) as may be needed to attain the aforementioned benchmark for timing of traffic removal. In the event that the City is unable to obtain a commitment from the City of Phoenix to provide all Public Support Services to the

Teams on a cost-free basis, the City will provide or cause to be provided the Public Safety Services to the Facility and the Teams sole cost with respect thereto shall be to reimburse the City an amount equal to One Thousand Five Hundred Dollars (\$1,500) per Spring Training Game played at the Facility and Two Thousand Five Hundred Dollars (\$2,500) per each Ancillary Event held at the Facility during the Term. Commencing in the second (2<sup>nd</sup>) Lease Year of the Term, the aforementioned amounts shall be increased by a percentage equal to the percentage average annual increase in the wages for City of Glendale Police Officers.

3.2.4. Except as provided in Section 3.2.4.1, obtain and maintain commercial general liability insurance and other insurance as set forth in Article 16 as necessary or appropriate to insure the liability of the Teams with respect to the Facility and of the City as an additional insured party. Except as otherwise provided in Article 16, the City shall be endorsed as an additional insured under the terms of such policies. Further provisions concerning insurance are set forth in Article 16 below. Such insurance may be satisfied through MLB insurance programs provided that the required insurance coverage is provided. A certificate of insurance and copy of the endorsement that evidences proof of such insurance shall be provided to the City starting on the beginning date of the Term and thereafter no more frequent than annually upon request of the City and as further provided in Article 16 below.

3.2.4.1 The City shall provide liability coverage through its self-insurance retention for the City Events and Parking Events, and property coverage in the same manner for the Facility. A certificate that evidences proof of such coverage shall be provided to the Teams starting on the beginning date of the Term and thereafter no less frequent than annually and as further provided in Article 16 below. The Teams shall be named and properly endorsed as additional insured parties under the excess liability coverages to be provided by the City pursuant to Section 16.2 below, to the extent permitted by the City's insurance carriers. If the City transfers ownership of the Facility to a 63-20 Corporation, the City shall provide the same insurance coverage on behalf of such corporation.

3.2.5. Set rates and charges for the use of the Facility by third parties, except in connection with City Events.

3.2.6. The right to advertise and promote all baseball events and Ancillary Events conducted at the Facility, including on a marquee billboard that identifies the Facility and sponsors of the Teams, the Facility and/or Ancillary Events, such advertising and promotion to mention or identify the City to the extent practicable (the Teams understand the importance of promoting the City and its image and desire and agree to assist in such regard) and in accordance with the provisions of Section 7.2 below.

3.2.7. Select and employ all concessionaires, licensees and other retail contractors with respect to the Facility, including, but not limited to, its parking lots, concession areas, and advertising space.

3.2.8. Enter into lawful contracts in the Teams' names relating to any and all of the foregoing upon terms and conditions which are consistent with the Maintenance Standards and the terms of this FUA.

3.2.9. Hire a manager of the Facility in consultation with the City.

3.2.10. Provide ticketing services themselves, or contract with an outside ticket agency for events conducted by the Teams.

3.2.11. Exploit the revenue-generating opportunities set forth in Sections 7.1 and 7.2.

3.3. Event Control. The Teams shall have the right, at their sole discretion, to cancel or postpone any event to be held at the Facility (except City Events, which may only be canceled because of a Life Safety Issue or as a result of a Force Majeure Event), including, but not limited to, any Spring Training Game; provided, however, that the Teams shall still be obligated to play the minimum number of Spring Training Games specified in Section 5.1 below.

3.4. Teams' Books and Records. All books and records of the Facility that relate specifically to the obligations to the City that the Teams have undertaken to perform hereunder shall be kept in accordance with reasonably accepted accounting principles and shall be subject to inspection by the City at the Facility during regular business hours upon two (2) days' prior written notice to the Teams; provided that no inspections will be requested or conducted by the City during Spring Training. The City will, to the extent allowed by law, protect the confidentiality of any books and records provided to it by the Teams. Books, records and accounts relating to matters that do not involve the Teams' obligations to the City hereunder (e.g., records pertaining to revenues generated by the activities described in Section 7.1 below) shall not be made available to the City except to the extent required by law for purposes of a tax or other governmental audit.

3.5. Complimentary Tickets to Home Games. In recognition of the financial contribution by the AzSTA to the development of the Facility, the Teams shall provide AzSTA with six (6) tickets located together in an excellent location to each Spring Training Game played at the Stadium throughout the Term. In recognition of the City's contribution to the development of the Stadium, the Teams shall provide the City, free-of-charge, with ten (10) tickets located together in an excellent location to each Spring Training Game played at the Stadium throughout the Term. In addition, but in each case subject to the terms of any agreements with third party promoters or other events providers, the City shall be permitted to use one (1) luxury suite at the Stadium for all events conducted at the Stadium, subject to any contract with an event promoter, during the Term of this FUA. The size, design, furnishings, equipment, seating capacity, and location of the luxury suite to be provided to the City hereunder shall be determined by mutual agreement of the City and the Teams. The use of the luxury suite shall be at no cost to the City, except for direct incremental expenses such as for food and beverage concessions. The City shall negotiate directly with the Stadium's food concessionaire with regard to any such costs and expenses.

#### ARTICLE 4. OTHER RIGHTS AND RESPONSIBILITIES

4.1. Operation. The Teams shall provide and pay for, solely from funds of the Teams, all costs and expenses required for the operation and Routine Maintenance of the Facility,

including, but not limited to, all personnel (including supervisory staff), labor, equipment, telephone, water, sewer, storm water, and materials; provided, however, that the Teams shall not be responsible for any of such items that are required to be provided and paid for by the City as Capital Repairs, Facility Upgrades and in connection with City Events. The City shall provide or cause to be provided throughout the Term all of the lines and connections needed to deliver water, gas, electricity and other utilities to the Facility. The Teams shall be responsible for all costs related to the use of (as opposed to installation or extension of) such water, gas, electricity and other utilities, as well as all costs related to the production of all baseball events and Ancillary Events, other than City Events, taking place at the Facility. The City will not assess a tax or otherwise charge a fee to the Teams for the cost or depreciation of the Improvements, including, without limitation, for the costs of installing or otherwise providing utilities to the Facility.

4.2. Taxes. Subject to Section 9.1, the Teams shall pay all taxes associated with the operation of the Facility, including, but not limited to, sales taxes, except that the City shall pay (i) that portion of the ad valorem real property taxes levied on the Site and all structures and Improvements constituting the Facility, and (ii) any sales tax in connection with City Events. If a new amusement tax, real estate tax, leasehold tax, personal property tax or a replacement tax for any of the foregoing is levied solely against the Teams by the City, the City of Phoenix or the State in relation to their occupancy and/or use of the Facility (but not including any general sales or property taxes that apply as well to persons or entities other than the Teams), then the amounts paid by the Teams in connection with such newly imposed tax or assessment shall be a credit against amounts due the City by the Teams under this FUA.

4.3. Liaison. Each party shall name one (1) person to be the liaison to work with the other parties with respect to coordinating the mutual responsibilities of the parties hereunder. The Dodgers hereby designate Mr. Craig Callan as the liaison unless and until a new person is designated in writing by the Dodgers; the White Sox hereby designate Mr. Terry Savarise as the liaison unless and until a new person is designated in writing by the White Sox; and the City hereby designates the Glendale City Manager or his designee as the liaison unless and until a new person is designated in writing by the City.

4.4. Limitations. The Teams' rights and obligations under this FUA are subject to the following additional limitations:

4.4.1. No contract entered into by either or both of the Teams pursuant to this FUA may impair any right of the City hereunder.

4.4.2. The Teams shall not, without the City's consent, enter into any contract extending beyond the expiration date of the Term, as the Term is defined when any such contract is executed by the Teams.

4.4.3. Other than mechanics' liens and other similar liens which may be placed on the Facility in connection with construction or repair work undertaken in accordance herewith by contractors, subcontractors and suppliers on behalf of the Teams, the Teams shall take no action which may result in the attachment of a permanent lien or cloud on the City's interest in or

title to the Facility. If, as a result of the Teams' actions, a lien or cloud is attached to the City's interest or title to the Facility, the Teams shall immediately take all reasonable and necessary steps to remove such lien or cloud. Notwithstanding the foregoing, the Teams may, in their sole discretion, grant to third parties security interests in any property acquired and/or paid for by the Teams, other than property to be deeded by the Teams to the City hereunder or paid for by the Teams with funds provided by the City.

4.4.4. The Teams shall not knowingly occupy or use the Facility for any purpose or in any manner that is unlawful.

4.4.5. Within the policies and standards set forth in this FUA, the Teams shall function as independent contractors in fulfilling the duties required by this FUA. All staff required by the Teams to accomplish their obligations under this FUA shall be employees or contractors of the Teams and not the City.

4.4.6. Upon Final Completion of the Improvements, the Teams shall take the Improvements "as is," with no warranty from the City as to the condition thereof; provided, however, that the foregoing shall not limit or restrict in any way the right of the Teams to exercise (i) their rights as third-party beneficiaries or indemnified parties under agreements that the City entered into with third parties for construction and development of the Facility pursuant to the FDA, and/or (ii) their right to indemnification under the FDA or this FUA, and/or (iii) their rights to have the City fund all Capital Repairs and Facility Upgrades under Sections 8.3 and 8.4 below.

4.4.7. Other than the Facility Equipment to be provided by the City as part of the Facility under the FDA, the Teams shall provide and maintain, at their expense, all other equipment they may need in order to perform their responsibilities hereunder.

4.4.8. Except as provided in the FDA or this FUA, the Teams shall not undertake any Additional Improvements to the Facility without the prior written permission of the City. Subject to the foregoing, the City acknowledges that the Teams are currently contemplating developing, in the southeast corner of the Site, on land not otherwise designated to be used as part of the Facility, a conference center (comparable to the conference center currently utilized by the Dodgers in Dodgertown) that may be used by the Teams to house and feed their players and personnel during Spring Training and for other compatible purposes before and after Spring Training. The parties shall negotiate in good faith to address ownership or long-term use rights (e.g., the acquisition of fee simple title or a long-term lease) with regard to any portion of the Facility to be affected by the convention center or baseball related Additional Improvements, including, without limitation, rights that would allow the Teams to finance the Additional Improvements and to operate the same under a long-term arrangement that may extend beyond the Term of this FUA; provided, however, that the City shall not be required to pay or contribute any funding for the development and construction of such Additional Improvements, and provided, further, that the City acknowledges and agrees that the use of any portion of the Site for any such Additional Improvements is included in the rights granted by the City to the Teams under this Agreement.

4.4.9. If the City reasonably believes that the Teams' failure to comply with any of their obligations under this FUA involves a Life Safety Issue, the City shall have an immediate right to correct the Life Safety Issue, and the Teams shall reimburse the City for the reasonable costs and expenses incurred by the City in correcting the Life Safety Issue within thirty (30) days after receiving from the City an invoice for such costs and expenses. Except to the extent there is a good faith dispute as to the existence of a Life Safety Issue or the reasonableness of the costs and expenses being claimed by the City (which dispute shall be resolved by Expedited ADR), if the amount claimed by the City is not paid when due, it shall bear interest at the prime rate published by the *Wall Street Journal* from time to time from the date that the Teams received the City's invoice until the date payment was made.

4.4.10. On or before the expiration date of this FUA, or its earlier termination as provided herein, the Teams shall remove all of their personal goods and effects and any FF&E they have provided at the Team's or Teams' costs, repair any damage caused by such removal, and surrender and deliver the Facility to the City in good working order and in a condition that reflects that the Facility was maintained by the Teams in accordance with Article 8 of this FUA, subject to reasonable wear and tear. Any personal property, effects or Team-provided FF&E at the Team's or Teams' costs not removed within thirty (30) days after the expiration date of this FUA or its earlier termination as provided herein shall be deemed to have been abandoned by the Teams, and may be retained or disposed of by the City, in its sole discretion, in accordance with applicable law.

4.4.11. Upon the expiration or earlier termination of this FUA, the Teams shall return the Facility to the City free and clear of any contractual obligations or other legal encumbrances granted or permitted by either of the Teams, except utility easements and other encumbrances necessary for the maintenance and operation of the Facility, provided that such encumbrances must be approved by the City in writing prior to the date of encumbrance.

4.4.12. The Facility shall not be used for the manufacture or storage of flammable materials, explosive materials or Hazardous Materials, except for paint and Hazardous Materials typically found for use or sale in retail stores, including supermarkets and dry cleaning stores, and/or typically found for use in comparable Spring Training facilities.

4.4.13. If the Teams pay the rent specified above in Section 2.4, and comply with all other terms of this FUA, the Teams may occupy and enjoy the premises of the Facility for the full Initial Term and any applicable Renewal Terms, subject to the provisions of this FUA.

## ARTICLE 5. SPRING TRAINING GAMES/WHITE SOX DELAYED MOVE

5.1. Spring Training Games. Subject to Section 5.4 below, and except if the Teams or either of them are prevented from doing so by any of the Force Majeure Events described in Article 17 below, or by any rule, regulation, directive, order, bulletin, or agreement of Major League Baseball, if and only if Substantial Completion of the Facility is achieved on or before February 1, 2009, each Team shall, each Lease Year during the Term, play at the Facility all of its Spring Training Games which are scheduled to be played in Maricopa County and in which the Team is designated as the "home team." To avoid confusion, a Team may play a Spring

Training Game at another venue within Maricopa County so long as the Team is not designated as the “home team” for such Spring Training Game in such other venue. Nothing contained in this FUA shall restrict or prohibit a Team from playing Spring Training Games in stadiums, venues, or facilities outside of Maricopa County in which it is designated as the “home team”, so long as each Team plays a minimum of ten (10) Spring Training Games at the Facility during the applicable Lease Year. For purposes of calculating the aforementioned minimum number of Spring Training Games played by each Team at the Facility, a Spring Training Game played at the Facility by the Teams against each other shall count as a Spring Training Game for only one of the Teams, and the Teams shall determine which of the Teams shall receive the credit for such Spring Training Game. The Teams shall, during the Term, designate and cause to be designated the Facility and “Glendale, Arizona” as their official Spring Training site; provided, however, that during any period of time when the White Sox are subject to Section 5.4 of this FUA, the White Sox may designate the Facility as the future official Spring Training site of the White Sox.

5.2. Rules and Regulations. The Teams shall comply with all applicable laws, ordinances, rules and regulations, including, but not limited to, the rules, regulations, directives, orders, bulletins, or agreements of Major League Baseball.

5.3. Facility Closure. Subject to the Teams’ obligations hereunder to conduct their Spring Training operations and play a minimum number of Spring Training Games at the Facility as required in Section 5.1, above, the Teams shall have the right to close down the Facility or certain portions thereof whenever the Teams, in their sole discretion, deem it appropriate to do so, subject only to previously scheduled and approved City Events and Parking Events for which the Parking Lots must be available.

5.4. Delayed Move by White Sox to the Facility. The City acknowledges that the White Sox may experience certain complications in the transference of its Spring Training operations and Spring Training Games in which it is designated the “home team” to the Facility upon the anticipated completion of the Facility for its use for Spring Training in 2009 because of issues involving its current use agreement for its Spring Training facility in Pima County. The White Sox agree to use reasonable best efforts to relocate its Spring Training operation and its Spring Training Games in which it is designated the “home team” to the Facility as required in Section 5.1 for the Spring Training season immediately following Substantial Completion of the Facility (but only to the extent such Substantial Completion occurs prior to February 1, 2009); provided, however, that in no event shall reasonable best efforts require the White Sox to pay any third party for an early termination of its obligations under its current use agreement for its Spring Training facility in Pima County. In no event will the White Sox move to the Facility occur later than the expiration of their current use agreement with Pima County in 2012 (allowing the White Sox to move to the Facility for the beginning of the 2013 Spring Training season). The White Sox have a continuing obligation to exercise any contractual right that may arise to terminate their current use agreement with Pima County. Except if the Teams are prevented from doing so by any of the Force Majeure Events described in Article 17 below, or by any rule, regulation, directive order, bulletin or agreement of Major League Baseball, for each Spring Training following Substantial Completion of the Facility (but only if such Substantial Completion occurs prior February 1, 2009) during which the White Sox have not completely

relocated their Spring Training operations to the Facility if the Teams combined fail to play a minimum of twenty (20) Spring Training Games at the Facility, the White Sox shall pay to the City an amount equal to two hundred fifty thousand dollars (\$250,000) times the number of Spring Training Games less than twenty (20) that are played at the Facility by the Teams combined during such Spring Training as liquidated damages (and the City's sole remedy) because of the difficulty and uncertainty of calculating the actual damages to the City for the loss of economic activity for each Spring Training Game not played. The White Sox's failure to make the move to the Facility for the first Spring Training following Substantial Completion of the Facility (but only if such Substantial Completion occurs prior February 1, 2009) does not negate the obligation and responsibility of the Teams under this FUA to pay annual Facility operation and maintenance costs as required under Section 3.2. The White Sox failure to move their Spring Training operations to the Facility prior to Spring Training 2013 because of conflicting Spring Training contractual obligations in Pima County, or failure to ensure that at least twenty (20) Spring Training Games are played at the Facility during any Spring Training after Substantial Completion of the Facility (but only if such Substantial Completion occurs prior February 1, 2009), shall not constitute or be construed as a breach of this FUA by the Dodgers, and, subject to performing their obligations hereunder, the Dodgers shall be entitled to obtain and enjoy all of the rights and benefits accorded to them under this FUA.

## ARTICLE 6. CITY'S USE OF THE FACILITY

6.1. Right of Entry. During the Term, except when exercising its police powers, the City shall have the right to enter into and upon any and all parts of the Facility for the purpose of examining the same with respect to the obligations of the parties under this FUA upon two (2) days' prior written notice to the Teams (or without prior notice in the event of a Life Safety Issue, but with immediate notice thereafter).

### 6.2. Advertising and Promotion.

6.2.1. If, during the Term, the Teams have any unsold advertising display space (e.g., billboards, outfield signs, etc.) at the Facility, then, subject to the Teams' prior reasonable approval as to the content, design, frequency of display, and placement of any such advertisements or promotional materials, the City shall be permitted to have public service advertisements or promotional materials and information that market or promote the City (but not the products, services or brand of any third party) displayed at the Facility in such unsold advertising display space. Nothing contained in this FUA shall require the Teams to remove or substitute any paid advertisement or promotional materials displayed at the Facility in favor of the City's advertisements or promotional materials, and all revenue-producing advertisers obtained by the Teams shall have priority of use and may immediately replace any advertising display space previously provided to the City hereunder. In addition, nothing contained in this FUA shall require the Teams to create new advertising display space or to increase the amount advertising display space, nor shall the Teams be prohibited or restricted from decreasing the amount advertising display space at the Facility.

6.2.2. Public Service Announcements. Beginning with the first Spring Training conducted by a Team at the Facility and continuing for each Lease Year thereafter, such Team

shall, at the City's request, produce two (2) public service announcements in video format ("Public Service Announcement(s)") directed at youth crime prevention, youth educational development, and youth sports and recreational participation. Such Public Service Announcements shall feature players of such Team or other publicly recognizable personnel of such Team, the selection of such players and/or personnel to be made in the sole and absolute discretion of the Team. All costs and expenses associated with the production, reproduction, distribution, and display of such Public Service Announcements, including, without limitation, the payment of any talent fees and/or health and retirement benefits contributions required by any applicable union agreements (e.g., AFTRA and SAG), shall be the responsibility of and borne solely by the City. Information pertaining to the amount of any talent fees and/or health and retirement benefits contributions required by any applicable union agreements shall be provided to the City upon request for the purposes of the City determining whether to request the Public Service Announcements be produced. All uses of such Public Service Announcements shall be in accordance with Exhibit E attached hereto.

6.2.3. Player Public Appearances. Beginning with the first Spring Training conducted at the Facility by a Team and continuing for each Lease Year thereafter, players and/or publicly recognizable personnel of such Team shall make two (2) public appearances at area schools, youth facilities, or City facilities in support of local youth programs. The players and/or other publicly recognizable personnel of each Team shall be selected by each Team in its sole and absolute discretion. The times and locations of the public appearances shall be agreed upon by such Team and the City. Locations targeted for appearances shall be selected by the City within Maricopa County with the intent to best serve youths recognized as underprivileged, at-risk, or having other special needs. The Teams shall not be responsible for any costs or expenses related to such public appearances.

6.2.4. City Events. The City shall have the right to use the Stadium, the Parking Lots and the Playing Fields at the Facility ("City Events Areas") for up to five (5) days per Lease Year for civic, youth and recreation events and programs, including youth sport activities ("City Events"). The City shall not be charged for the use of the City Events Areas, but shall be solely responsible for reimbursing the Teams for any operating costs and expenses incurred by the Teams as a result of the City's use of the Facility. In order not to interfere with the Teams' Spring Training operations, City Events shall not be scheduled from January 1 through April 30<sup>th</sup> of each Lease Year. The dates during which the City may use the Facility for City Events shall be selected by mutual agreement of the parties; provided, however, that if the parties cannot agree on the dates, the Teams' reasonable selection of dates shall be final and controlling, but shall take into account in good faith the interests of the City and the City Event after taking into account available dates when the Facility is not otherwise being used by the Teams, including for Ancillary Events. Notwithstanding any provisions to the contrary contained in this Agreement, the City may not use the Facility for any events that would compete with any revenue-generating events which may be arranged, staged, or produced by the Teams; provided, however, that if the City proposes an event that the Teams disapprove as being a competing revenue-generating event, the Teams must agree either (a) to conduct the event as an Ancillary Event to be conducted by the Teams in accordance with the City's plan for the event, or (b) to allow the City to conduct the event as a City Event. Moreover, the City's use of the Facility for a City Event must not

interfere in any way with the Teams' use and quiet enjoyment of the Facility. The City shall (i) not use or authorize the use of the Facility in any manner that would damage any portion of the Facility, including, without limitation, any Playing Field, or have a material detrimental impact on the Facility or any portion thereof, (ii) take such measures as are reasonably requested by the Teams to prevent damage to the Facility or any portion thereof, and (iii) be and remain solely responsible for any damage or destruction to the Facility or any portion thereof (including, without limitation, the Facility Equipment therein). The Teams shall have the right to review and approve all sponsors of any City Event, and the fact that a sponsor is a competitor of any of the Teams' exclusive sponsors will be grounds, in and of itself, for the Teams to reasonably disapprove of such sponsor, except for sponsors of multiple youth sporting events. Any temporary signage or marketing materials to be used or displayed at the Facility in connection with a City Event shall not cover any signage placed at or on the Facility by the Teams and shall be subject to the prior review and approval of the Teams. The City shall be entitled to retain the revenues from ticket sales and parking for, and concessions sold during, City Events. If the City determines that such services are required for a City Event, the City shall use the Facility's concession services, ticketing services, parking services and/or other services for a City Event. The Teams shall charge the City for such services the same charges that are charged to the Teams for Spring Training Games played at the Facility. The Teams shall be reimbursed by the City for any operating costs and expenses incurred by the Teams as a result of the City's use of the Facility, including, but not limited to, the cost of any parking attendants, ticket takers, security personnel, set-up or clean-up crews, concessionaire personnel, extra Playing Field maintenance if a Playing Field is used, ticketing costs, such as credit card fees and printing costs, and the like provided by the Teams. All such costs shall be the same charged for Spring Training Games played at the Facility. Following the completion of a City Event, the City must turn the Facility over to the Teams' control in the same condition as prior to the City Event, subject to reasonable wear and tear.

6.2.5. Parking. The Teams shall control and receive all revenues for parking at the Facility for all Spring Training Games, other baseball-related events and all Ancillary Events conducted by the Teams under this FUA. The City and Teams agree that each Lease Year, the Facility's Parking Lots shall be made available for use in service of the preseason and regular season games (currently ten (10)) of the current primary user of the multipurpose facility constructed under A.R.S. § 5-807 (the "**Parking Events**"), so long as the dates of such Parking Events do not conflict with the Teams' scheduled use of the Facility, including for Ancillary Events, and that in connection with such Parking Events, the City and the Teams shall each receive fifty percent (50%) of the gross revenues from such use. For all events that are not Parking Events, the Teams shall control, use and receive all revenues from the use of the Parking Lots. The City shall use the Facility's parking services, including attendants and other required personnel, for all Parking Events, and thereafter shall reimburse the Teams for any and all expenses incurred by the Teams in connection with such Parking Events. The City shall be responsible for any expenses associated with the Parking Events, and the City shall be and remain solely responsible for any damage or destruction sustained by the Parking Lots while being used in connection with the Parking Events. The City must turn the parking lots over to the Team's control after use for each Parking Event in the same condition as prior to such event, subject to wear and tear.

## ARTICLE 7. REVENUES

7.1. Revenues. During the Term and subject to Sections 6.2.4 and 6.2.5, the Teams shall control, collect, receive, and retain all revenues generated by any means at or in connection with the Facility, including, but not limited to, all revenues from ticket sales, food and beverage sales, merchandise sales, concessions and products sales, novelties, parking, telecast and broadcast rights, pouring rights, advertising, sponsorship, promotional and signage rights, Facility naming rights, luxury suite licenses and any other revenues derived or generated in connection with baseball and Ancillary Events held at the Facility.

7.2. Naming Rights. At all times during the Term, the Teams shall have the right to sell naming, affiliation, and/or sponsorship rights in and to the Facility or any portion thereof and/or to change the name of the Facility or any portion thereof. The name of the Facility or the Stadium shall be subject to the prior written review and approval of the City, which approval shall not be unreasonably withheld, conditioned or delayed. The Facility shall, without cost to the City, be identified with the City in a reasonable manner (e.g., the manner in which the Jobing.com Arena-Glendale, Arizona is currently identified with the City). Any and all revenues derived from the sale of naming, affiliation, and/or sponsorship rights in and to the Facility or any portion thereof shall be retained solely by the Teams. Additionally, notwithstanding any naming of the Facility, the Teams shall make all reasonable efforts to identify their Spring Training operations with "Glendale, Arizona."

## ARTICLE 8. CAPITAL REPAIRS AND ROUTINE MAINTENANCE; FACILITY UPGRADES

8.1. Allocation of Responsibilities. It is the purpose of this Article 8 to allocate the responsibilities between the City and the Teams for the cost of making repairs, restorations, replacements, and upgrades to the Facility that are necessary during the Term. The general overriding principle of such allocation is (but subject in all events to the specific provisions hereof) that the Teams are responsible for funding and providing for all Routine Maintenance, and the City is responsible for funding all Capital Repairs and Facility Upgrades. No action by the Teams to undertake any repairs, replacements or upgrades in accordance herewith shall constitute an admission that any such item is Routine Maintenance.

8.2. Routine Maintenance. As used herein, the term "**Routine Maintenance**" shall mean the provision of all labor and materials which are required to (a) keep the Facility and its Components in good order and repair, provided such work is of a routine nature and does not constitute Capital Repairs, and (b) keep the Facility in a clean, sanitary and safe condition and free of debris. Without limiting the foregoing, Routine Maintenance shall be in accordance with the Maintenance Standards. Examples of Routine Maintenance include the following:

8.2.1. Performing all preventive or routine maintenance which is stipulated in operating manuals for Components as regular, periodic maintenance procedures;

8.2.2. Regular maintenance procedures for the HVAC system, include periodic cleaning, lubricating and changing of air filters;

8.2.3. Groundskeeping, including, but not limited to, mowing, seeding, fertilizing, and spot resodding;

8.2.4. Changing of isolated light bulbs, fuses and circuit breakers;

8.2.5. Touch-up painting;

8.2.6. Making ready and maintaining the Playing Fields each year for Spring Training; and

8.2.7. Repairing or replacing discreet, isolated and immaterial occurrences of cracked or disintegrated concrete, broken pipes or leaking roof or sections thereof.

8.3. Capital Repairs. “**Capital Repairs**” means any work which is reasonably required to be performed in and about the Facility to repair, restore or replace any Components of the Facility that may require such work because of any damage, destruction, ordinary wear and tear, defects in construction or design, or any other cause; provided that Capital Repairs shall not include any of the foregoing if such results from Team Misuse; nor shall Capital Repairs include any work related to any Component of the Facility which constitutes an Additional Improvement made by the Teams. If the cost of any Capital Repairs is paid out of the Capital Repairs Account (as defined below) and the parties are subsequently reimbursed for such cost under any applicable warranty or insurance, then the total amount of the reimbursement shall be deposited into the Capital Repairs Account, unless the Capital Repairs Account is fully funded in accordance with the last paragraph of Section 8.5 below. The following are examples of Capital Repairs:

8.3.1. Replacement of all or significant portions of scoreboard bulbs as a result of sudden damage from the elements or other unforeseen cause;

8.3.2. Replacement or repair of an HVAC compressor;

8.3.3. Replacement of carpeting with carpeting of similar quality which wears out as a result of ordinary wear and tear;

8.3.4. Repair or replacement of areas of cracked or disintegrated concrete, broken pipes or leaking roof, except as covered by Section 8.2.7;

8.3.5. Repair or replacement of seats, or replacement of the seat standards or the concrete into which the seat standards are affixed (but not with respect to isolated seats requiring repair or replacement);

8.3.6. Re-application of protective materials, such as paint or weather-proofing, after original application wears out;

8.3.7. Changes or improvements to the Facility to meet Legal Requirements or the requirements of Major League Baseball applicable to Spring Training facilities generally;

8.3.8. Replacement of all or substantially all of a Playing Field, however in no event shall this be a City responsibility more than once every six (6) years, with fields being resodded on a rotating basis so that no more than two (2) fields are resodded per year, with three (3) fields resodded in the last of each six year rotation; and

8.3.9. Repair or replacement of a significant component of the Facility due to extraordinary weather damage.

8.4. Facility Upgrades. Subject to Section 8.3, the City shall have no obligation to make any upgrades to the Facility during the first seven (7) years of the FUA. Thereafter, the City shall, from time to time, as needed, upgrade, modernize and otherwise improve the Facility so that during the Term, the Facility shall maintain a comparable level of amenities and technology to other Spring Training complexes (“**Facility Upgrades**”) as set forth herein. At such time as any technological improvements (*e.g.*, video rooms) have been incorporated in at least two (2) out of three (3) other Spring Training facilities located in the State and designated as comparable facilities by the City and the Teams hereunder, then the City shall install, within two (2) years, such technological improvements in the Facility. However, subject to Section 8.3, this provision shall not require the City to expend monies within the first seven (7) years of this FUA.

8.5. Capital Repairs Account. On or before February 1, 2009, the City shall establish an account (“**Capital Repairs Account**”) for the purpose of accumulating funds for the payment of the cost of Capital Repairs and Facility Upgrades. The Capital Repairs Account shall be established at the City’s servicing bank. Funds in the account shall be invested in interest bearing accounts or certificates of deposit of such depository bank, in securities issued or guaranteed by the United States Government or any agency or instrumentality thereof, and as otherwise permitted by the City under law and the City Charter. Subject to this Section 8.5, the Capital Repairs Account shall be funded by the City in accordance with procedures adopted by the City, and from other funds, if any, made available for Capital Repair purposes from other sources, such as AzSTA. Except as provided in the FDA or in this Section 8.5, the City may fund the Capital Repairs Account in any manner it so desires. The Capital Repairs Account may be drawn only upon the signature of the designated signatory or signatories of the City and may be used for the payment of any and all obligations of the City for payment of the costs of Capital Repairs and Facility Upgrades, other than, subject to any deductibles, those arising out of damage which is covered by insurance (except that the Capital Repairs Account may be used for covered losses pending receipt of insurance proceeds provided that such proceeds are thereafter deposited in said Capital Repair Account). Interest earned on amounts in the Capital Repairs Account may be used by the City to pay any of its obligations to make Capital Repairs and Facility Upgrades hereunder. The City shall be obligated to pay for Capital Repairs irrespective of the amount of funds which may be in the Capital Repairs Account.

The Capital Repairs Account shall initially be funded, to the extent of available funds as identified in this Section 8.5 and in the FDA, by the City as set forth herein in an amount sufficient to pay the costs necessary to fund the present value, calculated on an annual basis, of the first Capital Repair Plan (as defined in Section 8.9 below). The discount rate for determining

such present value shall be subject to the reasonable approval of the City and the Teams. In accordance with the provisions of Sections 4.8.1 and 4.8.2 of the FDA, the Capital Repairs Account shall be funded initially with any funds remaining in the Teams' Contingency and the Field Savings after Final Completion of the Facility. Amounts available in the Capital Repairs Account in excess of the requirements of the seven-year Capital Repair Plan required by Section 8.9 of this FUA shall be available to be used by the City, as it deems necessary, to pay down debt obligations relating solely to the Project. The City acknowledges that although the funds described above shall be used to fund the Capital Repairs Account, those sources do not limit the City's obligation with respect to Capital Repairs and Facility Upgrades. All funds in the Capital Repairs Account shall be exclusive property of the City.

8.6. Capital Repairs or Facility Upgrade Procedure. Subject to Section 8.7, as required by law, all contracts for Capital Repairs and Facility Upgrades to be paid for with Capital Repair Account funds must be procured in accordance with the City's procurement procedures. If the Teams identify a needed Capital Repair or a Facility Upgrade required hereunder, they shall contact the representative designated by the City for concurrence in such designation, and upon City approval, which shall not be unreasonably withheld, delayed or conditioned, and which shall be deemed to have been given with respect to any Capital Repair or Facility Upgrade that is in an approved budget pursuant to Section 8.8.3 of this FUA, the Teams shall proceed in accordance with the City's procurement procedures to effect the procurement and oversee the proper performance of the Capital Repair. Payment and performance bonds are required from contractors performing construction, repairs or alterations to any public buildings. The City's Purchasing Manager, or designee, shall be available to advise the Teams on the required procedure. Warranties should be obtained from contractors for any work performed. If the cost of a Capital Repair or Facility Upgrade exceeds \$25,000, the Teams shall obtain, at a minimum, a one-year warranty from the contractor for the work and will enforce such warranty. The cost of any warranties obtained hereunder by the City or the Teams shall be paid out of the Capital Repairs Account. Notwithstanding the foregoing, at its option, the City may choose to effect the procurement and oversee the proper performance of the Capital Repair or Facility Upgrade if and to the extent it promptly notifies the Teams thereof and takes such actions as are necessary so that the Capital Repair and Facility Upgrade are done in a timely manner.

8.6.1. If the City so chooses to effect the procurement and oversee the performance of a Capital Repair or Facility Upgrade, the City (in consultation with the Teams) shall select the contractors and vendors for the Capital Repair or Facility Upgrade (but not sub-contractors) in accordance with its procurement procedures. Whenever possible, the Teams shall be named as third-party beneficiaries of, and as additional insureds and indemnified parties in, all contracts necessary for completion of any and all Capital Repairs or Facility Upgrades made by the City, including, without limitation, those with any contractors and vendors (including sub-contractors), and the form of the contracts (and any material deviations therefrom) shall be subject to the prior written approval of the Teams. The Teams shall also be named as beneficiaries of, or shall have the right, in their reasonable discretion, to request that the City enforce its rights under, any payment and performance bonds obtained by the City in connection with any and all Capital Repairs and Facility Upgrades made by the City. Prior to exercising their rights as third-party beneficiaries, the Teams shall provide the City with notice and a

reasonable opportunity to enforce the agreement at issue. The City agrees to cooperate with the Teams in the exercise of their rights as third-party beneficiaries, including pursuing claims under warranties and applicable performance and payment bonds furnished by contractors and vendors. Subject to the provisions of Section 15.6 below, any exercise by the Teams of their rights as third-party beneficiaries shall not relieve the City of any of its obligations hereunder.

8.6.2. Regardless of whether the Teams or the City supervise the contracts for Capital Repairs or Facility Upgrades, the supervisor shall cause the work to be completed as promptly as possible, with all work completed in a good and workmanlike manner, and shall cause to be corrected all defects in workmanship and materials in such work. All such work shall be conducted in a manner so as to eliminate, or if elimination is not possible, to minimize, interference with Team's operations and City Events at the Facility.

8.7. Emergency Capital Repairs; Procedures. If the Teams determine that an Emergency Capital Repair is needed, they shall immediately contact the City's designated representative empowered to authorize an emergency procurement of the contract needed to make the Emergency Capital Repair with as much competition as is practicable under the circumstances. If the City representative is unavailable to give prior authorization, then the Teams may proceed with effecting the procurement with as much competition as practicable, and within twenty-four (24) hours shall submit to the City representative a written explanation of the necessity for the Emergency Capital Repair and the steps taken to effect the emergency procurement. If the City representative finds that the Teams' determination of the necessity for an Emergency Capital Repair and the emergency procurement were made in good faith, the City shall pay (or reimburse the Teams) for the Emergency Capital Repair. Otherwise, the Teams may appeal the City representative's determination to the City Manager. If a dispute remains following an appeal to the City Manager, the matter may be submitted for Expedited ADR. If the cost of the Emergency Capital Repair is less than ten thousand dollars (\$10,000), the Teams may immediately contract for the necessary repairs and then comply with the foregoing procedures for reimbursement (or direct payment) by the City from the Capital Repairs Account. The Teams may utilize the services of an Affiliate to perform Emergency Capital Repairs only if the cost of the repair will be the same or less from an Affiliate than from other readily available sources and the allowable costs to an Affiliate subject to reimbursement by the City shall only include actual direct costs, with no mark-up for overhead or other indirect costs. In the case of an Emergency Capital Repair when time is of the essence, the Teams may use an Affiliate only if the cost of the repair will be the same or less from an Affiliate than from other readily available sources and the allowable costs to an Affiliate subject to reimbursement by the City shall only include actual direct costs, with no mark-up for overhead or other indirect costs.

8.8. Maintenance and Repair Meetings. Prior to the beginning of each Spring Training during the Term, representatives of the Teams and City shall meet to:

8.8.1. Review Teams' anticipated Routine Maintenance, which shall be submitted to the City in writing by the Teams;

8.8.2. Allocate any anticipated work between anticipated Routine Maintenance and anticipated Capital Repairs and Facility Upgrades;

8.8.3. Determine budgets and timetables for anticipated Capital Repairs and Facility Upgrades; and

8.8.4. Generally effectuate the administration of the provisions of this Article 8.

8.9. Seven Year Capital Repair Plan. On or before May 15, 2008 and thereafter on May 15 of each Lease Year during the Term, the Teams and the City shall jointly develop a seven (7) year capital repair plan (“**Capital Repair Plan**”) for the Facility. The contents of such Capital Repair Plan shall be for planning purposes only, and shall not affect in any way the City’s obligations for Capital Repairs and Facility Upgrades as set forth in this FUA.

8.10. Americans with Disabilities Act. The Facility will be constructed in compliance with the Americans with Disabilities Act of 1990 (“ADA”). Any structural changes that may be required for compliance with the ADA, whether as a result of changes in ADA rules, regulations, interpretations, or otherwise, shall constitute Capital Repairs which shall be a City obligation to be funded from the Capital Repair Account. ADA issues relating to operational matters shall be a Team obligation, except with respect to City Events, which shall be a City obligation.

## ARTICLE 9. CITY OBLIGATIONS

9.1. Tax Assessments. To the degree allowed by law and with respect to the City’s taxing authority, no amusement tax, real, leasehold, personal property, or other replacement taxes will be assessed by the City solely against the Teams with relation to the occupancy and/or use of the Facility. This provision excludes any general sales or property tax increases enacted by the City which also apply to Persons other than the Teams.

9.2. Quiet Enjoyment. The City will not take any action which conflicts in any way with the Teams’ uses and quiet enjoyment of the Facility or their operations thereon.

## ARTICLE 10. DEFAULT/REMEDIES

10.1. Teams’ Default. The occurrence of any one or more of the following events constitutes a “**Default**” by a Team under this FUA:

10.1.1. Failure by a Team to observe or perform in any material respect any material covenant, agreement, condition, or provision of this FUA or the FDA, if such failure continues for thirty (30) days after written notice thereof has been delivered by the City to the Team; provided, however, that the such Team shall not be in Default with respect to matters which cannot reasonably be cured within thirty (30) days so long as within such thirty (30) day period, the Team commences such cure and diligently proceed to complete the same thereafter. A Default by one Team shall not constitute or be deemed a Default by the other Team; provided, however, that the City’s right with respect to remedies as a result of any Default shall not be inhibited by the non-defaulting Team.

10.1.2. The levy upon, under execution or the attachment by legal process, a Team’s interest hereunder, or, subject to the provisions of Section 4.4.3 above, the filing or

creation of a lien in respect of such interest, which levy, attachment, or lien is not released, discharged or bonded against within one hundred eighty (180) days from the date of such filing;

10.1.3. A Team is finally adjudicated insolvent or bankrupt or admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors, or applies for or consents to the appointment of a trustee or receiver for such Team or for the major part of its property;

10.1.4. A trustee or receiver is appointed for a Team or for the major part of its property and such trustee or receiver is not discharged within one hundred eighty (180) days after such appointment;

10.1.5. Bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings, or any other proceedings for relief under any bankruptcy law, or similar law for the relief of debtors, are instituted by or against a Team, and, if instituted against a Team, are allowed against it or are consented to by the Team or are not dismissed within one hundred eighty (180) days after such institution, to the extent permitted by law; or

10.1.6. In addition to any other remedy available under this FUA, and except as provided in Section 5.4 and Article 17, if at any time during the Initial Term or any Renewal Term, a Team ceases to conduct its Spring Training operations at the Facility, ceases to play at the Facility the minimum number of Spring Training Games required under Section 5.1 and/or otherwise fails to comply with the provisions of Section 5.1 of this FUA, such event shall constitute a "**Cessation of Use**" of the Facility by such Team and shall be deemed a Default under this FUA. Notwithstanding anything to the contrary contained in this FUA, a Cessation of Use of the Facility by a Team shall entitle the City to terminate this FUA as it applies to the Team in Default by giving both Teams ten (10) days' written notice of such termination. The Team causing the Cessation of Use shall have ten (10) days after receipt of the aforementioned notice of termination to renounce the Cessation of Use by confirming to the City its intention to continue to use the Facility during the Term as its Spring Training facility and to play at the Facility its Spring Training Games as required under Section 5.1. Otherwise, termination pursuant to the provisions of this Section 10.1.6 shall become effective with regard to the Team in Default upon the expiration of such ten (10) day cure period. In the event of a termination of this FUA by the City with respect to one defaulting Team, the non-defaulting Team shall have the same rights vis-à-vis any MLB replacement team sought by the City, including, without limitation, the right to approve such replacement team, as the Renewing Team would have under Section 2.3 above.

10.2. **City's Default.** In the event of any failure by the City to observe or perform in any material respect any material covenant, agreement, condition, or provision of this FUA, and if such failure shall continue for ninety (90) days after notice thereof has been delivered to the City by the Teams, then the City shall be deemed to be in Default hereunder; provided, however, that the City shall not be deemed to be in Default with respect to matters which cannot reasonably be cured within ninety (90) days so long as within such ninety (90) day period, the City commences such cure and diligently proceeds to complete the same thereafter.

10.3. Remedies. In the event of a dispute or Default under this FUA, remedies shall be available under Sections 10.3.1, 10.3.2 or 10.3.3; however, in no event shall a party (except with respect to any third-party Claims) be liable hereunder for indirect, incidental, exemplary, punitive, special or consequential damages (it being understood that amounts paid or to be paid, or due or to become due, hereunder shall not be deemed to be incidental, consequential or special damages), including, without limitation, damages for loss of profits, incurred by any party hereto, whether in an action in contract or tort, even if the other party has been advised of the possibility of such damages.

10.3.1. Arbitration. All disputes or Defaults under this FUA shall be resolved pursuant to Expedited ADR (attached as Exhibit D), unless the nature of the dispute is such that a party will be irreparably harmed due to the time necessary to resolve the dispute pursuant to Expedited ADR.

10.3.2. Judicially Administered Equitable Remedies. In the event of a dispute or Default that would result in irreparable harm to a party due to the time necessary to resolve the dispute if resolved pursuant to Expedited ADR, a party shall be entitled to seek an injunction or decree for specific performance or equitable relief from a court of competent jurisdiction.

10.3.3. Termination. The following events shall permit the City on the one hand and the Teams on the other hand to terminate this FUA following the expiration of an additional ninety (90) days' notice to the defaulting party.

10.3.3.1 Failure of the defaulting party to pay an award or follow a determination rendered pursuant to Section 10.3.1 of this FUA, in which case the Teams may terminate this FUA if the City is the defaulting party and the City may terminate this FUA if either of the Teams is the defaulting party

10.3.3.2 Failure of the City to appropriate funds to make a payment contractually required under this FUA.

10.3.3.3 Failure of the Teams to make a payment contractually required under this FUA.

## ARTICLE 11. REAL ESTATE OPTIONS

11.1. To induce the Teams to enter into this FUA, the City hereby grants to the Teams a ten (10) year option to purchase two (2) parcels of land that are currently owned by the City. The parcels are commonly referred to as the Hickman Parcel and the Rainier Parcel, and are described in detail in Exhibit B hereto (collectively, the "**Development Parcels**"). The Teams and the City are entering into the Option Agreement attached hereto as Exhibit C simultaneously herewith, pursuant to which the Teams shall have the option to purchase either or both of the Development Parcels. The options may be exercised by the Teams jointly, or with the consent of the other Team, individually. In the event of a Team's uncured Cessation of Use pursuant to Section 10.1.6, any unexercised option by such Team at that time shall terminate. A Team may not exercise an option hereunder while it is in Default under the FDA or this FUA.

## ARTICLE 12. ASSIGNMENT/SUBLEASE

12.1. Assignment. This FUA may not be assigned by any party to any other Person without the prior written consent of all other parties, which consent may be granted or denied by the parties in their sole discretion; provided, however, that this FUA may be assigned by either Team without the City's consent (but with prior written notice to the City and the other Team) to any Person who, with the approval of Major League Baseball, acquires the assigning Team's MLB franchise (by any form of acquisition), provided that any such assignee explicitly assumes in writing the duties and responsibilities of the assigning Team under this FUA (in which case the liability of the assigning Team shall cease with respect to liabilities accruing from and after such assignment). This FUA may also be assigned by the City without the Teams' consent (but with prior written notice to the Teams) to the 63-20 Corporation or a comparable non-profit or governmental entity whose primary purpose is to own and/or manage facilities for sports or other entertainment purposes ("Other Permitted Transferee"). The City shall give prior written notice to the Teams of any anticipated assignment of this FUA to such 63-20 Corporation or Other Permitted Transferee and such 63-20 Corporation or Other Permitted Transferee shall expressly assume the obligations of the City hereunder in writing, but the City shall remain primarily liable under this FUA for the obligations stated herein, notwithstanding such assignment, unless explicitly released from this obligation in writing by the Teams at their sole discretion.

12.2. Sublease. The Teams may sublease, with the approval of the City, such approval not to be unreasonably withheld, at any time during the Term, any portion of the Facility, including, but not limited to, any of the Improvements (e.g., offices, practice fields, clubhouses, weight rooms and/or conference facilities) located at the Facility. All revenues derived from subletting any of the foregoing shall be retained solely by the Teams. Any such sublease shall remain subordinate to this FUA and the Teams obligation under this FUA shall remain unchanged. The Teams shall remain primarily liable under this FUA for the obligations stated herein, notwithstanding such sublease, unless explicitly released from this obligation in writing by the City at its sole discretion.

## ARTICLE 13. REPRESENTATIONS AND WARRANTIES

13.1. The City. The City represents and warrants to the Teams that:

13.1.1. Authority. The City has full power and authority to enter into this FUA, and the execution, delivery and performance of this FUA by the City have been duly authorized by all necessary actions. This FUA is a valid and binding obligation of the City, enforceable against the City in accordance with its terms.

13.1.2. Ownership. As of the date hereof and, except as an assignment or other form of conveyance may be permitted under this FUA or under the FDA, as of Final Completion of the Facility, the City owns and will own, as applicable, fee title to the Facility and there are and will be, as applicable, no easements, liens or encumbrances that could adversely affect the Teams' contemplated use of the Facility.

13.1.3. Compliance with Other Agreements and Instruments. The execution, delivery and performance of this FUA by the City is not prohibited by and does not violate or breach any other agreements or instruments to which the City is a party or is otherwise subject or any applicable Legal Requirements.

13.1.4. Compliance with Law. The City has not received any notice as of the date of this FUA asserting any noncompliance in any material respect by the City with applicable Legal Requirements, the City is not in default with respect to any judgment, order, injunction or decree of any court, administrative agency or other governmental authority that is in any respect material to the transaction contemplated in and by this FUA, and the City has received all approvals and consents of third parties, including from the City of Phoenix, required for the City to perform its obligations hereunder. The City will promptly notify the Teams of any notice of noncompliance or default.

13.2. Dodgers. The Dodgers represent and warrant to the City that:

13.2.1. Authority. The Dodgers is a limited liability company duly organized and validly existing under the laws of the State of Delaware, qualified to transact business in the State and in good standing under the laws of the State. The Dodgers' MLB franchise is in full force and effect. The Dodgers has full power to enter into this FUA, and the execution, delivery and performance of this FUA by the Dodgers have been duly authorized by all necessary limited liability company actions. This FUA is a valid and binding obligation of the Dodgers, enforceable against the Dodgers in accordance with its terms.

13.2.2. Compliance with Other Agreements and Instruments. The execution, delivery and performance of this FUA by the Dodgers is not prohibited by and does not violate or breach any other agreements or instruments to which the Dodgers is a party or is otherwise subject, or any applicable Legal Requirement.

13.2.3. Compliance with Law. The Dodgers has received no notice as of the date of this FUA asserting any noncompliance in any material respect by the Dodgers with applicable Legal Requirements that is in any respect material to the transactions contemplated in and by this FUA, and the Dodgers is not in default with respect to any judgment, order, injunction, or decree of any court, administrative agency, or other governmental authority that is in any respect material to the transactions contemplated in and by this FUA.

13.3. White Sox. The White Sox represent and warrant to the City that:

13.3.1. Authority. The White Sox is a limited partnership duly organized and validly existing under the laws of the State of Illinois, qualified to transact business in the State and in good standing under the laws of the State. The White Sox MLB franchise is in full force and effect. The White Sox has full partnership power to enter into this FUA, and the execution, delivery and performance of this FUA by the White Sox have been duly authorized by all necessary partnership actions. This FUA is a valid and binding obligation of the White Sox, enforceable against the White Sox in accordance with its terms.

13.3.2. Compliance with Other Agreements and Instruments. The execution, delivery and performance of this FUA by the White Sox is not prohibited by and does not violate or breach any other agreements or instruments to which the White Sox is a party or is otherwise subject, or any applicable Legal Requirement.

13.3.3. Compliance with Law. The White Sox has received no notice as of the date of this FUA asserting any noncompliance in any material respect by the White Sox with applicable Legal Requirements that is in any respect material to the transactions contemplated in and by this FUA, and the White Sox is not in default with respect to any judgment, order, injunction, or decree of any court, administrative agency, or other governmental authority that is in any respect material to the transactions contemplated in and by this FUA.

#### ARTICLE 14. MISCELLANEOUS

14.1. Notices. Any notice required by or permitted under this FUA shall be in writing and shall be deemed delivered when delivered by hand or by overnight delivery service addressed as follows (or to such other address as a party shall inform the other party):

If to the City:	City Manager City of Glendale 5850 West Glendale Avenue Glendale, Arizona 85301
Copy to:	City Attorney City of Glendale 5850 West Glendale Avenue Glendale, Arizona 85301
If to the Dodgers:	Los Angeles Dodgers LLC 1000 Elysian Park Avenue Los Angeles, California 90012 Attention: Santiago Fernandez, Esq. Senior Vice President & General Counsel Craig Callan Phone: 323-224-1312 Fax: 323-224-1595

If to the White Sox:  
Chicago White Sox  
U.S. Cellular Field  
333 West 35<sup>th</sup> Street  
Chicago, Illinois 60616  
Attention: Howard Pizer  
Terry Savarise  
John Corvino  
Phone: 312-674-5501  
Fax: 312-674-5519

Copy to: Katten Muchin Rosenman LLP  
525 West Monroe Street  
Chicago, Illinois 60661  
Attention: Adam Klein  
Phone: 312-902-5200  
Fax: 312-902-1061

14.2. Amendment. This FUA may not be amended, changed, modified or rescinded except in writing by the City and the Teams, and any attempt at oral modification of this FUA shall be void and of no effect.

14.3. Entire Agreement. This FUA, including its exhibits, and the FDA, including its exhibits, constitute the entire agreement between the parties, and supersede all prior or contemporaneous agreements (whether oral or written) between them (including the MOU), with respect to the subject matter hereof.

**14.4. Governing Law.** This FUA shall be governed by, and construed in accordance with, the laws of the State of Arizona.

14.5. Counterparts. This FUA may be executed in two or more counterparts which have been signed and delivered by each of the parties (a party may execute a copy of this FUA and deliver it by facsimile or electronic transmission; provided, however, that any such party shall promptly deliver an original signed copy of the FUA).

**14.6. Jurisdiction and Venue.** Subject to Section 10.3, the exclusive, convenient, and proper venue for any legal proceeding arising out of, or related to, this FUA shall be Maricopa County Superior Court, in and for the County of Maricopa, Arizona. Moreover, subject to Section 10.3, all parties to this FUA, persons and entities alike, consent to the personal jurisdiction of the Maricopa County Superior Court and irrevocably waive any objections to said jurisdiction.

14.7. Time of Essence. Time is of the essence in the performance of this FUA.

14.8. **Damage to Property.** The Teams shall not have any liability for loss or damage to property owned or leased or otherwise in the possession, control, or custody of the City, that is wrongfully or incorrectly on the premises of the Facility unless such damage is caused solely or

partially by the Team's gross negligence or willful misconduct, in which case the Teams shall be liable for only the portion so caused

14.9. Headings. The headings used herein are for convenience of reference only and shall not constitute a part hereof or affect the construction or interpretation hereof.

14.10. Severability. If any clause, provision, or section hereof is held illegal, invalid, or unenforceable by any court, the illegality, invalidity, or unenforceability of such clause, provision or section shall not affect any of the remaining clauses, provisions, or sections hereof, and this FUA shall be construed and enforced as if such illegal, invalid, or unenforceable clause, provision or section had not been contained herein.

14.11. Waiver. No failure on the part of any party to exercise, and no delay in exercising, and no course of dealing with respect to any right hereunder, shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right or remedy provided at law or in equity, except as expressly set forth herein.

14.12. Survival. Articles 10, 14, 15 and 16 shall survive termination of this FUA.

14.13. Interpretations. To the extent permitted by the context in which used, (a) words in the singular number shall include the plural, words in the masculine gender shall include the feminine and neuter, and vice versa; (b) reference to "persons" or "parties" in this FUA shall be deemed to refer to natural persons, corporations, general partnerships, limited partnerships, trusts and other entities; and (c) (unless specified otherwise) references to sections or articles are to sections or articles of this FUA.

14.14. Third Party Beneficiary. No person other than the Teams, the City, and, with respect to Article 15, the Indemnified City Parties and the Indemnified Team Parties, and the successors and permitted assigns of such, shall have any rights whatsoever under this FUA.

14.15. Estoppel Certificates. At any time, within twenty (20) days after request by either party, the other party shall certify in writing to the requesting party, or any person specified by the requesting party, to the effect (a) whether this FUA is unmodified and in full force and effect (or if there has been modification, that the same is in full force and effect as modified and setting forth such modification); (b) whether or not to the best of the other party's knowledge, the requesting party is in Default hereunder; and (c) any other information which the requesting party reasonably requests to be confirmed.

14.16. Conflicts of Interest. The parties acknowledge that this FUA is subject to A.R.S. § 38-511.

## ARTICLE 15. INDEMNIFICATION

15.1. Indemnification by the Teams. To the fullest extent permitted by law, each Team shall indemnify, protect, and hold the City its officers, agents, and employees, and each of their

respective successors and assigns (collectively, the “**Indemnified City Parties**”) harmless from and defend the Indemnified City Parties against any and all “liabilities” (as hereinafter defined), including for any “bodily injury” (as hereinafter defined) or “property damage” (as hereinafter defined), whatsoever arising out of or resulting from (i) any breach of any representation or warranty of such Team set forth herein or default in performance of any obligation on the part of such Team or the Teams to be performed hereunder, (ii) the acts or omissions of such Team, or such Team’s agents, contractors or employees in, on or about the Facility, or (iii) the use, occupancy, and operation of any part of the Facility occupied, operated, or controlled by the Teams or one of the Teams, including (but not limited to) environmental liability (e.g., contamination of the Site by Hazardous Materials) caused, contributed to, allowed, or not prevented by the Teams or one of the Teams, but not to the extent that any of the liabilities are caused by the negligence or willful misconduct of the Indemnified City Parties, nor to the extent that the City Indemnified Parties have expressly undertaken the obligation to indemnify the Teams for such liabilities pursuant to the terms of this FUA or any other agreement (e.g., the FDA).

15.2. Indemnification by the City. To the fullest extent permitted by law, the City shall indemnify, protect, and hold the Teams, their respective Affiliates and the officers, agents, employees, directors, shareholders, partners, successors and permitted assigns of the Teams and their respective Affiliates (collectively, the “**Indemnified Team Parties**”) harmless from and defend the Indemnified Team Parties against any and all “liabilities” (as hereinafter defined), including for any “bodily injury” (as hereinafter defined) or “property damage” (as hereinafter defined), whatsoever arising out of or resulting from (i) any breach of any representation or warranty of the City hereunder or default in the performance of any obligation on the part of the City to be performed hereunder, (ii) the acts or omissions of the City, or the City’s agents, contractors directly hired by the City or City employees in, on or about the Facility, but not to the extent caused by the negligence or willful misconduct of the Indemnified Team Parties or (iii) any City Event unless caused by the negligence or willful misconduct of the Indemnified Team Parties.

15.3. Definitions. As used in this FUA, “liabilities” shall mean, subject to Section 10.3, all liabilities, claims, damages, losses, penalties, litigation, demands, causes of action (whether in tort or contract, in law or equity or otherwise), suits, proceedings, judgments, disbursements, charges, assessments, and expenses (including reasonable attorneys and experts fees and expenses incurred in investigating, defending, or prosecuting any litigation, claim or proceeding, whether out of court, at trial or in any appellate or administrative proceeding). “**Bodily injury**” means bodily injury, sickness or disease sustained by a person, including death resulting from any of the foregoing. “**Property damage**” shall mean physical injury to tangible property, including all resulting loss of use of that property, or loss of use of tangible property that is not physically injured.

15.4. Procedure for Indemnification -- Third Party Claims. Promptly after receipt by an indemnified party under Sections 15.1 or 15.2 of notice of a third-party claim against it (“Claim”), such indemnified party shall, if a claim is to be made against an indemnifying party under such Section, give notice to the indemnifying party of such Claim, but the failure to notify

the indemnifying party will not relieve the indemnifying party of any liability that it may have to any indemnified party, except to the extent that the indemnifying party demonstrates that the defense of such action is prejudiced by the indemnified party's failure to give such notice.

15.4.2. If any Claim is made against an indemnified party and it gives notice to the indemnifying party of such Claim, the indemnifying party will be entitled to participate in the defense of such Claim, and, to the extent that it wishes to assume the defense of such Claim with counsel satisfactory to the indemnified party, and after notice from the indemnifying party to the indemnified party of its election to assume the defense of such Claim, the indemnifying party will not, as long as it diligently conducts such defense, be liable to the indemnified party under such Section for any fees of other counsel or any other expenses with respect to the defense of such Claim in each case subsequently incurred by the indemnified party in connection with the defense of such Claim, other than reasonable costs of investigation; provided, however, that if the indemnifying party and the indemnified party have potential or actual conflicting interests that would make it inappropriate for the same counsel to represent them, or the indemnified party has defenses available to it that are not available to the indemnifying party, the indemnifying party may select one separate counsel for its representation at the indemnifying party's expense. If the indemnifying party assumes the defense of a Claim, (a) no compromise or settlement of such Claim may be effected by the indemnifying party without the indemnified party's consent unless (i) there is no finding or admission of any violation of Legal Requirements or any violation of the rights of any Person by the indemnified party, (ii) the indemnified party receives a full and unconditional release from all liability as to any Claims that are the subject matter of the applicable action and (iii) the sole relief provided is monetary damages that are paid in full by the indemnifying party and (b) the indemnifying party will have no liability with respect to any compromise or settlement of any Claim(s) effected by the indemnified party without the indemnifying party's consent. If notice is given to an indemnifying party of a Claim and the indemnifying party does not, within thirty (30) days after the indemnified party's notice is given (or such lesser period of time as may be necessary to avoid a default on such Claim), give notice to the indemnified party of its election to assume the defense of such Claim, the indemnified party shall have the right to undertake, at the expense and risk of the indemnifying party, the defense, compromise or settlement of said Claim.

15.4.3. Notwithstanding the foregoing, if an indemnified party determines in good faith that there is a reasonable probability that a Claim may adversely affect it or its Affiliates other than as a result of monetary damages for which it would be entitled to indemnification under this FUA, the indemnified party may, by notice to the indemnifying party, assume the exclusive right to defend, compromise, or settle such Claim, but the indemnifying party will not be bound by any determination of a Claim so defended or any compromise or settlement effected without its consent (which may not be unreasonably withheld).

15.5. Procedure for Indemnification—Other Claims. A claim for indemnification for any matter not involving a third-party Claim may be asserted by notice to the party from whom indemnification is sought.

15.6. Obligation Reduced by Other Recovery. An indemnifying party's duty to pay an indemnity claim shall, in each instance, be reduced by the amount the indemnified party recovers from any third-party, including, without limitation, as a result of exercising its rights as a third party beneficiary under another contract or of receiving insurance proceeds in connection with such indemnity claim. The intent of this provision is that the indemnified party be made as whole as possible and not receive a windfall.

15.7. Independent Provisions; Survival of Termination. The provisions of this Article 15 are independent of, and will not be limited by, any insurance obligations in this FUA, and shall survive the expiration or earlier termination of this FUA with respect to any claims or liability arising in connection with any event occurring prior to such expiration or termination.

## ARTICLE 16. INSURANCE.

### 16.1. Teams Policies.

16.1.1. Throughout the Term, the Teams shall maintain, at their sole cost, the following insurance (the “**Teams Policies**”):

16.1.1.1 General Liability. General liability insurance in an occurrence form to protect against loss from liability imposed by law for damages on account of property damage or personal injury, including death therefrom, suffered or alleged to be suffered by any person or persons whomsoever, resulting directly or indirectly from any act or activities of the Teams or under their respective control or direction in the following minimum amounts:

\$20,000,000 each occurrence premises and operations

\$10,000,000 each occurrence personal and advertising injury

\$20,000,000 each occurrence products-completed operations

16.1.1.2 Auto. Automobile liability for bodily injury and property damage arising from the use of Team owned, non-owned and hired vehicles, in an amount not less than \$5,000,000 per accident.

16.1.1.3 Liquor Liability. Liquor liability for bodily injury and property damage on an occurrence form in an amount not less than \$5,000,000 combined single limit per occurrence, provided that the Teams shall not be required to provide such insurance if provided by the vendor(s) serving alcoholic beverages at the Facility.

16.1.2. Limits. Total per occurrence limits may be satisfied in any combination of primary and excess policies of insurance. All amounts referenced herein shall be increased appropriately during the Term of the Agreement to assure that comparable coverage is provided throughout the Term of the Agreement.

16.1.3. Additional Insured Parties. Each of the Teams Policies, except the workers' compensation and employer's liability policy, shall be endorsed to name City and its

respective employees, agents, representatives, successors, assigns and Affiliates as additional insured parties (the “**City Additional Insured Parties**”).

16.1.4. Notice of Changes. The Teams Policies shall provide for not less than thirty (30) days’ advance written notice to the City of a cancellation or termination of a Teams Policy, of a reduction of the coverage limits of any Teams Policy or of any other material change in a Teams Policy.

16.1.5. Certificate of Insurance. Within ten (10) business days after commencement of the Initial Term, the Teams shall deliver to the City a certificate of insurance which shall confirm the existence or issuance of the City Policies in accordance with the provisions of this Section 16.1 and a copy of the endorsement of the Teams Policies in accordance with the provisions of Section 16.1.3 above. Notwithstanding the immediately preceding sentence, the City shall be under no obligation either to ascertain or confirm the existence or issuance of the Teams Policies, or to examine the Teams Policies, or to inform the Teams in the event that the coverage of any of the Teams Policy does not comply with the requirements of this Section 16.1. The Teams’ failure to secure and maintain the Teams Policies as required herein shall constitute a material default under this FUA.

## 16.2. City Coverage.

16.2.1. Throughout the Term, the City shall maintain, at its sole expense, and in accordance with Arizona Revised Statutes 41-621 and 41-622, and the direction of the Glendale City Council and the Risk Management Trust Fund Board of Trustees, the insurance and self-insurance described in the Certificate of Coverage attached to this FUA as Exhibit F (which is incorporated herein in its entirety by this reference), as well as the excess liability coverage described in the portion of Exhibit F that was prepared by Alliant and is entitled “City of Glendale, Arizona – Excess Liability Summery of Insurance – Term: July 1, 2006 to July 1, 2007” (collectively, the “**City Coverage**”).

16.2.2. Additional Insured Parties. Each of the City Policies, except for workers’ compensation coverage and the employer’s liability policy, shall be endorsed to name each of the Teams and their respective owners, partners, members, directors, officers, employees, agents, representatives, heirs, successors, assigns, and Affiliates as additional insured parties (the “**Teams Additional Insured Parties**”).

16.2.3. Notice of Changes. The City Policies shall provide for not less than thirty (30) days’ advance written notice to each of the Teams of a cancellation or termination of a City Policy, of a reduction of the coverage limits of any City Policy or of any other material change in a City Policy.

16.2.4. Certificate of Insurance. Within ten (10) business days after the commencement of the Initial Term, the City shall deliver to the Teams a certificate of self insurance which shall confirm the existence or issuance of the City Coverage in accordance with the provisions of this Section 16.2. Notwithstanding the immediately preceding sentence, the Teams shall be under no obligation either to ascertain or confirm the existence or issuance of the

City Coverage, or to examine the City Coverage, or to inform the City in the event that the coverage of any of the City Coverage does not comply with the requirements of this Section 16.2. The City's failure to maintain the City Coverage as required herein shall constitute a material default under this FUA.

16.2.5. Waiver of Right to Recover. In addition to the foregoing, but subject to the terms of the applicable policy, the City shall waive any and all rights of recovery it may hereafter have or obtain against the Teams and the Teams Additional Insured Parties for any injuries and/or losses sustained by, or damages caused to the City, its employees, agents, representatives and/or Affiliates, the City's property, and/or the property of others under the City's control, but only to the extent that any such loss or damage is in excess of the City's self insured retention and is covered under the terms of the excess liability portion of the City Coverage and only to the extent permitted by the insurance carrier providing such insurance. The City shall provide such waivers of subrogation by endorsement or otherwise.

16.3. All of the insurance policies required under Sections 16.1 above shall be effected from insurance companies recognized by and authorized in the State, and provide a notice of cancellation or material coverage change provision of thirty (30) days' notice in favor of the party.

16.4. If the Teams fail to furnish the certificate(s) of insurance as required above, the City may, after notice and an opportunity to cure as set forth in this FUA, obtain the insurance, and the premiums on that insurance shall be deemed additional rent to be paid by Teams to the City on demand. The Teams shall be responsible for securing, at their own expense, whatever insurance coverage they may desire on the contents of the Facility. All certificates of insurance required by this FUA shall be provided on a standard ISO form.

## ARTICLE 17. FORCE MAJEURE

17.1. Force Majeure Event. Should any Force Majeure Event prevent performance of this FUA in accordance with its provisions, performance of this FUA by either party shall be suspended or excused to the extent commensurate with such occurrence, except as specifically provided herein, and such failure to perform due to a Force Majeure Event shall not be deemed a default under this FUA. A party shall not be entitled to the benefits of this Section 17.1 unless it gives reasonably prompt written notice to the other parties of the occurrence of a Force Majeure Event which it believes permits a delay in the performance of its obligations pursuant to this Section 17.1; provided, however, if the other parties are already aware of such a Force Majeure Event, no such written notice shall be required.

17.2. Partial Destruction. In the event of a partial destruction of the Facility, if the Teams determine, at their sole discretion, that the undamaged portion of the Facility is still suitable for their Spring Training operations, then this FUA shall continue in full force and effect with no adjustments in the obligations of the parties, and the City shall restore the Facility as soon as possible from insurance proceeds or the City's own funds; provided, however, that to the extent that the Teams are responsible for causing such partial destruction, the Teams shall be responsible for the cost of repair.

17.3. Facility Not Suitable for Use. In the event of total or partial destruction or damage of the Facility, if the Teams reasonably determine that the Facility is not suitable for their Spring Training operations and/or cannot be used as the venue for their Spring Training Games, then this FUA shall be suspended immediately until the Facility is repaired. Within twelve (12) months of the occurrence of such total or partial destruction or damage, the City shall begin to repair or rebuild the Facility using the proceeds from the property coverage for that purpose and shall diligently pursue such repair or rebuilding until completed. Once the City contracts with an architect or an engineer or design build firm to draw plans for the repair or rebuilding of the Facility, the City shall be deemed to have begun the repair or rebuilding of the Facility. This FUA shall continue to be suspended until the Facility is suitable for the Teams' Spring Training operations and as a venue for their Spring Training Games. The Teams shall have the same rights with respect to the repair or rebuilding of the Facility (including approval, consultation or review rights and rights with respect to contracts entered into by contractors and vendors) as they had for the design, construction and development of the Facility under Sections 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9 and 4.10 of the FDA.

## ARTICLE 18. ZONING AND PERMITTING

18.1. Zoning and Permitting. The City shall obtain any permits and/or zoning changes that may be required to construct the Improvements. The Teams shall be responsible at their sole cost to secure permitting for any Additional Improvements that the Teams may hereafter desire to make to the Facility. The City, acting solely in its capacity as the fee owner of the Site, shall cooperate with the Teams as may be reasonably required, to enable the Teams to obtain any permits for the Additional Improvements, including, but not limited to, by joining in any applications for such permits.

## ARTICLE 19. CONSENTS, APPROVALS AND LIENS

19.1. Granting or Failure to Grant Approvals or Consents. All consents and approvals which may be given by a party under this FUA shall, as a condition of their effectiveness, be in writing. The granting by a party of any consent to or approval of any act requiring consent or approval under the terms of this FUA, or the failure on the part of a party to object to any such action taken without the required consent or approval, shall not be deemed a waiver by the party whose consent was required of its right to require such consent or approval for any other act.

19.2. Standard. Unless this FUA specifically provides for the granting of consent or approval at a party's sole discretion, then consents and approvals which may be given by a party under this FUA shall not (whether or not so indicated elsewhere in this FUA) be unreasonably withheld or conditioned by such party and shall be given or denied within the time period provided, and if no such time period has been provided, within a reasonable time. Upon disapproval of any request for a consent or approval, the disapproving party shall, together with notice of such disapproval, submit to the requesting party a written statement setting forth with specificity its reasons for such disapproval.

19.3. Approvals for the City. The City hereby agrees that, subject to applicable laws and regulations, the City Manager (or the City Manager's authorized designee) shall be authorized to grant consents or approvals on behalf of the City with respect to this FUA.

19.4. No Fees, Etc. Except as otherwise expressly authorized in this FUA, no fees or charges of any kind or amount shall be required by either party hereto as a condition of the grant of any consent or approval which may be required under this FUA (provided that the foregoing shall not be deemed in any way to limit the City acting in its governmental, as distinct from its proprietary, capacity from charging governmental fees on a nondiscriminatory basis).

## ARTICLE 20. MAJOR LEAGUE BASEBALL PROVISIONS

20.1. Notwithstanding any other provision of this Agreement:

20.1.1. This FUA and the rights, exclusivities and protections granted by the Teams to the City hereunder shall, at the request of the Office of the Commissioner of Baseball, be subject to its review and prior written approval, and shall in all respects be subordinate to, and shall not prevent the issuance, entering into, or amendment of, any of the following, each as may be issued, entered into or amended from time to time (collectively, the "**MLB Documents**"):

(1) any present or future agreements or arrangements regarding the telecast, broadcast, recording (audio or visual), or other transmission or retransmission (including, but not limited to, transmission via the Internet or any other medium of interactive communication, now known or hereafter developed) of Major League Baseball games, and/or the accounts and descriptions thereof, entered into with third parties by any MLB Entity, either on its own behalf or on behalf of the Major League Baseball clubs and/or other MLB Entities;

(2) any other present or future agreements or arrangements entered into with third parties by, or on behalf of, any of the MLB Entities, including, without limitation, those relating to ticketing, e-commerce, and/or the exploitation of intellectual property rights in any medium, including the Internet or any other medium of interactive communication;

(3) any present or future agreements or arrangements entered into by the Teams with the other Major League Baseball Clubs and/or one or more of the MLB Entities (including, without limitation, the Major League Constitution, the American and National League Constitutions, the Professional Baseball Agreement, the Major League Rules, the Interactive Media Rights Agreement, and each agency agreement and operating guidelines among the Major League Baseball Clubs and an MLB Entity); and

(4) the applicable rules, regulations, policies, bulletins or directives issued or adopted either by the Commissioner or otherwise pursuant to the Major League Constitution or any such agency agreement (the "**Major League Rules**").

Notwithstanding the foregoing provisions of this Section 20.1.1, the Teams shall not enter into any agreement between each of them or between either of them and one (1) other Major League Baseball team that by its terms or if as a result of performance thereunder would violate the provisions of this FUA.

20.1.2. The territory within which the City is granted rights hereunder cannot extend beyond the Home Television Territory of the Teams, as established and amended from time to time pursuant to the **MLB Documents**. Nothing herein shall be construed as conferring on the City rights in areas outside of the Teams' Home Television Territories.

20.1.3. No rights, exclusivities, or obligations involving the Internet or any Interactive Media or on-line media are conferred on the City by this FUA. Any right or obligation in this FUA involving Interactive Media must be approved in writing by MLB Advanced Media, Inc. prior to the Teams' execution of this FUA. For purposes of this provision, "**Interactive Media**" shall mean: (1) the Internet or any other on-line system or computer network; (2) any interactive wireless service, including any interactive microwave or cellular service; (3) any interactive satellite service; (4) any interactive broadcast television, broadcast radio or cable television service; and (5) any other medium of interactive communication now known or hereafter devised.

[Signature Page Follows]

IN WITNESS THEREOF, the undersigned have executed this FUA as of the day and year first above written.

CITY OF GLENDALE, municipal corporation of the State of Arizona

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Craig Tindall, City Attorney

**ATTEST:**

\_\_\_\_\_  
City Clerk

LOS ANGELES DODGERS LLC, a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

CHICAGO WHITE SOX, LTD., an Illinois limited partnership

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

***[NEED TO INSERT NOTARY BLOCK FOR THE TEAMS]***

## **EXHIBITS**

- Exhibit A Legal Description of Site
- Exhibit B Development Parcels
- Exhibit C Form of Option Agreement
- Exhibit D Expedited Alternative Dispute Resolution
- Exhibit E Use of Teams' Marks in Public Service Announcements
- Exhibit F Certificate of Coverage

## **EXHIBIT A**

### **LEGAL DESCRIPTION OF SITE**

The following property description is preliminary and is subject to a final determination of the following items: The common boundary between the described property and the adjoining property and the final location of the proposed 111<sup>th</sup> Avenue road alignment.

That portion of Section Eighteen (18), Township Two (2) North, Range One (1) East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

Commencing at the Northeast corner of Section 18, from which the North quarter corner bears South 87 degrees 33 minutes 00 seconds West, at 2627.48 feet;

Thence South 00 degrees 24 minutes 32 seconds West, along the east line of said Section 18, a distance of 2388.92 feet the east quarter corner of said Section 18;

Thence South 00 degrees 25 minutes 22 seconds West, along the east line of said Section 18, a distance of 394.35 feet;

Thence North 89 degrees 34 minutes 38 seconds West, a distance of 33.00 feet to the True Point of Beginning;

Thence South 00 degrees 25 minutes 22 seconds West, and 33.00 feet west of and parallel to the east line of said Section 18, a distance of 1976.28 feet to a point 33.00 feet west of the east line of said Section 18

Thence South 87 degrees 30 minutes 56 seconds West, a distance of 7.01 feet;

Thence South 00 degrees 25 minutes 22 seconds West, and 40.00 feet west of and parallel to the east line of said Section 18, a distance of 583.01 feet;

Thence South 44 degrees 00 minutes 15 seconds West, a distance of 47.51 feet, to a point 45.00 feet north of the south line of said Section 18, from which the southeast corner of said Section bears South 59 degrees 56 minutes 56 seconds East, a distance of 83.70 feet;

Thence South 87 degrees 31 minutes 36 seconds West, and 45.00 feet north of and parallel to the south line of said Section 18, a distance of 257.33 feet;

Thence North 78 degrees 26 minutes 10 seconds West, a distance of 123.69 feet;

Thence South 87 degrees 31 minutes 36 seconds West, and 75.00 feet north of and parallel to the south line of said Section 18, a distance of 2050.52 feet, to a point from which the south quarter corner of said Section bears South 54 degrees 24 minutes 17 seconds West, a distance of 137.26 feet;

Thence northwesterly along a curve concave to the southwest, from which the radius bears South 87 degrees 59 minutes 42 seconds West, a distance of 5499.23 feet;

Thence Northwesterly along said curve to the left, through a central angle of 05 degrees 07 minutes 31 seconds, an arc distance of 491.93 feet;

Thence South 82 degrees 52 minutes 10 seconds West, radial to the aforementioned curve, a distance of 10.00 feet;

Thence northwesterly along a curve concave to the southwest, from which the radius bears South 82 degrees 52 minutes 10 seconds West, a distance of 5489.23 feet;

Thence Northwesterly along said curve to the left, through a central angle of 02 degrees 01 minutes 01 seconds, an arc distance of 193.24 feet to a point of tangency;

Thence North 09 degrees 08 minutes 51 seconds West, a distance of 300.00 feet;

Thence Northeasterly along a curve concave to the southeast, from which the radius bears North 80 degrees 51 minutes 09 seconds East, a distance of 1136.40 feet;

Thence Northeasterly along said curve to the right, through a central angle of 49 degrees 54 minutes 46 seconds, an arc distance of 989.97 feet to a point of reverse curvature;

Thence Northeasterly along a curve concave to the northwest, from which the radius bears North 49 degrees 13 minutes 19 seconds West, a distance of 367.85 feet;

Thence Northeasterly along said curve to the left, through a central angle of 38 degrees 45 minutes 15 seconds, an arc distance of 248.81 feet to a point of tangency;

Thence North 02 degrees 01 minutes 33 seconds East, a distance of 344.39 feet;

Thence Northeasterly along a curve concave to the southeast, from which the radius bears South 87 degrees 58 minutes 27 seconds East, a distance of 221.83 feet;

Thence Northeasterly along said curve to the right, through a central angle of 42 degrees 14 minutes 08 seconds, an arc distance of 163.53 feet to a point of tangency;

Thence North 44 degrees 15 minutes 52 seconds East, a distance of 719.37 feet;

Thence South 62 degrees 55 minutes 31 seconds East, a distance of 1886.29 feet to the True Point of Beginning;

Said parcel contains 151.00 acres.

**EXHIBIT B**  
**DEVELOPMENT PARCELS**

**EXHIBIT C**  
**FORM OF OPTION AGREEMENT**

**EXHIBIT D**

**EXPEDITED ALTERNATIVE DISPUTE RESOLUTION**

**EXHIBIT E**

**USE OF TEAMS' MARKS IN PUBLIC SERVICE ANNOUNCEMENTS**

1. For purposes of this FUA, the term “**Marks**” means the names, nicknames, slogans, emblems, logotypes, insignia, designs, devices, colors, artwork, coats of arms, trophies, uniforms, uniform designs, helmet designs, trademarks, trade names, service marks, trade dress, mascots (including all names and designs thereof), and stadium and ballpark names and designs, that at any time were or are owned, applied to be registered or registered, controlled, cleared for use by, or on behalf of, or licensed by, the Person referenced in this FUA in conjunction with such Marks. In accordance with the foregoing, the “**Teams’ Marks**” shall mean all Marks owned and/or controlled by the Teams and the “**City’s Marks**” shall mean all Marks owned and/or controlled by the City.

2. Solely for the purposes and in the manner specified in Section 6.2.2 of this FUA and in this Exhibit E, and subject to the terms and conditions of the MLB Documents, including, without limitation, the Major League Rules (as each of the aforementioned terms is defined in Article 20 of this FUA), the Teams hereby grant to the City a non-exclusive, royalty-free license to use the Teams’ Marks in the Public Service Announcements.

3. Except for the rights granted to it herein, the City has no rights or interest in or to any of the Teams’ Marks. All of the City’s use of the Teams’ Marks shall inure to the benefit of the Teams. The City shall not, either during or after the Term of this FUA, by any act or omission, with or without others, do or authorize anyone to do anything that would or could infringe upon, harm, and/or contest the rights of the Teams in their use, ownership, and/or control of the Teams’ Marks. All use of the Teams’ Marks by the City shall be accompanied by the appropriate trademark notice (® or ™) to the same extent that the Teams include such notices or cause such notices to be included in other authorized uses of the Teams’ Marks. The City shall not license the Teams’ Marks to others.

4. The City shall not use the Teams’ Marks in any manner that, in the reasonable discretion of the Teams, is lewd, immoral, tasteless, lascivious, grotesque, or otherwise tends to undermine the character, reputation, or goodwill of the Teams or their standing in the community. Any such unauthorized use of the Teams’ Marks by the City shall be considered a Default of this FUA by the City.

5. No rights are conveyed by this FUA to the City to hold and/or sponsor any type of contest, sweepstakes, and/or promotion involving any Major League Baseball games, including, without limitation, any Spring Training Games, Division Series games, League Championship Series games, World Series games, or All-Star Games, or any other Major League Baseball-related consumer promotion, whether or not the Teams’ Marks could or would be used in connection with any such contest, sweepstakes, and/or promotion.

6. The City shall not use, or cause to be used, the Marks of any Person other than the City in connection with its use of the Teams’ Marks without the prior written approval of the Teams.

7. In order to comply and remain in compliance with the quality control provisions of all applicable federal and state trademark laws and the terms and conditions of the MLB Documents, and for the purpose of protecting the Teams' intellectual property rights and their registrations of the Teams' Marks, the Teams shall have the right to supervise and control the City's use of the Teams' Marks. In furtherance of the foregoing, the City shall ensure that its use of the Teams' Marks complies with all applicable federal, state, and local laws, rules, and regulations governing the use of the Teams' Marks and the terms and conditions of the MLB Documents.

8. The City shall have the right to use the Teams' Marks in the Public Service Announcements described in Section 6.2.2 of this FUA, provided such Public Service Announcements are broadcast in accordance with and subject to the MLB Documents, including, without limitation, the Major League Rules.

9. The City shall submit to the Teams for their approval a sample of any Public Service Announcements depicting the Teams' Marks at least seven (7) business days prior to distributing, displaying, broadcasting or otherwise using such Public Service Announcements and shall not distribute, display, broadcast or otherwise use such Public Service Announcements without the prior written approval of the Teams. The Teams' approval, which may be granted or denied by the Teams in exercise of their sole and absolute discretion, shall be given, if at all, within three (3) days after the Teams' receipt of the City's request for approval. The Teams shall be deemed to have disapproved the Public Service Announcements if their approval has not been given within the aforementioned time. Any change proposed by the City in any previously approved Public Service Announcements shall also be submitted to the Teams for their approval and shall not be implemented without the prior written approval of the Teams.

10. All copyrights and other intellectual property rights in and to any Public Service Announcement and any films, video tapes, photographs, recordings, commercials, advertisements, and/or other materials prepared or developed by the City in connection with the Public Service Announcements or this FUA, which depict, reference, and/or include any of the Teams' Marks, shall be owned and/or controlled exclusively by the Teams.

**EXHIBIT F**  
**CERTIFICATE OF COVERAGE**

